

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/716,858 Confirmation No. : 7100
First Applicant : Gary R. Flauaus, et al. Art Unit : 2182
Filed : November 19, 2003 Examiner : NEURAUTER, G.
Title : Method of Detecting and Monitoring Fabric Congestion
Docket No. : 112-0307US/233-538-USP
Customer No. : 48929

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT
PURSUANT TO 37 C.F.R. §§ 1.56, 1.97, AND 1.98**

Sir:

The Examiner is respectfully requested to consider the patents, patent applications, publications, or other information cataloged on the enclosed Form PTO/SB/08a during examination of the above-identified patent application. The order of presentation of the references should not be construed as an indication of importance. These references are submitted for the Examiner's consideration and are submitted pursuant to an Applicant's duty of disclosure under 37 C.F.R. § 1.56.

Copies of all of the cited documents

are enclosed unless otherwise indicated on the enclosed Form PTO/SB/08a.

have been previously furnished to the Office in prior application No.

_____, filed _____, which the present application relies upon for an earlier effective filing date under 35 U.S.C. § 120. Therefore, no copies of the cited documents are included herewith pursuant to 37 C.F.R. § 1.98(d); MPEP § 609(III)(A)(2).

are enclosed unless they are U.S. patents or U.S. patent application publications pursuant to 37 C.F.R. § 1.98(a).

**I
BASIS**

This information disclosure statement is filed pursuant to

- 37 C.F.R. § 1.97(b).

This information disclosure statement is filed either (1) within three months of the filing date of a national application other than a continued prosecution application under 37 C.F.R. § 1.53(d); (2) within three months of the date of entry of the national stage as set forth in 37 C.F.R. § 1.491 in an international application; (3) before the mailing date of a first Office action on the merits; or (4) before the mailing of a first Office action after the filing of a request for continued examination under 37 C.F.R. § 1.114, whichever event occurs last.

Accordingly, this information disclosure statement requires no fee and no certification.

- 37 C.F.R. § 1.97(c).

This information disclosure statement is filed after the period specified in 37 C.F.R. § 1.97(b), but before the mailing date of any of (1) a final action under 37 C.F.R. § 1.113; (2) a notice of allowance under 37 C.F.R. § 1.311; or (3) an action that otherwise closes prosecution in the application.

Accordingly, this information disclosure statement requires either the fee specified in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under 37 C.F.R. § 1.97(c), or a statement under 37 C.F.R. § 1.97(e).

- 37 C.F.R. § 1.97(d).

This information disclosure statement is filed after the period specified in 37 C.F.R. § 1.97(c) since a

final action under 37 C.F.R. § 1.113

notice of allowance under 37 C.F.R. § 1.311

was mailed to the Applicant(s) on _____. The issue fee has not been paid herein.

Accordingly, this information disclosure statement requires the fee set forth in 37 C.F.R. § 1.17(p) to consider an information disclosure statement under 37 C.F.R. § 1.97(d), and a statement under 37 C.F.R. § 1.97(e).

If this statement crosses in the mail with an Office action, or is otherwise not in the indicated category of 37 C.F.R. § 1.97, it is respectfully requested that this statement be treated in the next appropriate category and made of record. To the extent required, please treat this paper as a conditional petition for acceptance of the information disclosure statement.

**II
FEES**

Any required fee is being paid as indicated below by an enclosed check or our deposit account.

- No fee is due.
- The \$_____ fee specified in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under 37 C.F.R. § 1.197(c) or (d) is due.
- A check is enclosed for the required fee.
- Please charge the required fee to our deposit account no. 503199.
- The Commissioner is hereby authorized to charge any additional required fees or credit any overpayments associated with this information disclosure statement to our deposit account no. 503199.

**III
CERTIFICATION**

Pursuant to 37 C.F.R. § 1.97(e), I state as follows:

- No statement is necessary.
- Each item of information contained in this information disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement. 37 C.F.R. § 1.97(e)(1).
- No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this information disclosure statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this information disclosure statement. 37 C.F.R. § 1.97(e)(2).

Pursuant to 37 C.F.R. § 1.704(d), I state as follows:

- Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this information disclosure statement.

IV FOREIGN LANGUAGE REFERENCES

Pursuant to 37 C.F.R. § 1.98(a)(3)(i), any information disclosure statement filed under 37 C.F.R. § 1.97 shall include a concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from the specification or incorporated therein. In compliance with the rules, the Applicant(s) state as follows:

- No concise explanation is required since all cited references are in English.
- A concise explanation of the relevance of one or more foreign language references is attached.
- According to the procedural policy adopted by the PTO with regard to disclosure requirements, the Applicant is satisfying the disclosure requirement pursuant to MPEP § 609(III)(A)(3) by submitting herewith the following:
 - English language versions of any non-English language documents.
 - English language versions of one or more search reports or other actions by one or more foreign patent offices in one or more counterpart foreign applications, which indicate the degree of relevance found by the foreign office(s).

The Applicant has not analyzed these documents and, therefore, declines to comment on their relevance at this time.

- One or more English language abstracts for the non-English language references are also enclosed.

V REMARKS

- Pursuant to the doctrines established by the Court of Appeals for the Federal Circuit in *McKesson Information Solutions, Inc. v. Bridge Medical, Inc.*, 487 F.3d 897 (Fed. Cir. 2007) and *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003), Applicant(s) submit documents herewith reflecting the prosecution history of applications that Applicant(s) believe may be considered related to the present application.

It is respectfully requested that

- (1) the Examiner sign the enclosed Form PTO/SB/08a to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application; and
- (2) the citations for the cited information be printed on any patent that issues from this application.

The submission of this information disclosure statement by the Applicant(s) shall not be construed as a representation that a search has been performed or that no other material information under 37 C.F.R. § 1.56 exists. See 37 C.F.R. § 1.97(g).

The submission of this information disclosure statement by the Applicant(s) shall not be construed as an admission that any information cited or referred to herein is, or is considered to be, material to the patentability of one or more of the pending claims in this application pursuant to 37 C.F.R. § 1.56(b), unless specifically designated by the Applicant(s) as such. See 37 C.F.R. § 1.97(h).

The submission of this information disclosure statement by the Applicant(s) shall not be construed as an admission that any information cited or referred to herein is, or is considered to be, or even qualifies as “prior art” under 35 U.S.C. § 102 with respect to this invention, unless specifically designated by the Applicant(s) as such.

Notwithstanding any statements by the Applicant(s), the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

VI CONCLUSION

The Examiner is encouraged to contact the undersigned attorney to discuss any questions concerning this information disclosure statement or any of the information cited or referred to herein.

Respectfully submitted this 14th day of November 2007.

/Richard J. Holzer, Jr./

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